

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

CHRISTOPHER LAPLATNEY,

Plaintiff,

v.

HERCULES FORWARDING, INC.,
THOMAS V. BRAWLEY,

Defendants.

NOTICE OF REMOVAL

Index №. 5:22-cv-325 (MAD/ATB)

PLEASE TAKE NOTICE that defendants HERCULES FORWARDING, INC. and THOMAS V. BRAWLEY (hereinafter “Removing Defendants”), by their attorneys, Bennett Schechter Arcuri & Will LLP, and pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, file this Notice of Removal of the action styled *CHRISTOPHER LAPLATNEY, Plaintiff, versus HERCULES FORWARDING, INC. and THOMAS V. BRAWLEY, Defendants*, Index №. 000963/2022 (the “Action”), from the Supreme Court of the State of New York, County of Onondaga, to the United States District Court for the Northern District of New York.

In support thereof, Removing Defendants state:

1. On or about February 10, 2022, Plaintiff Christopher LaPlatney (hereinafter, “Plaintiff”) commenced the Action by filing a Summons and Verified Complaint in the Supreme Court of the State of New York, County of Onondaga, against Removing Defendants HERCULES FORWARDING, INC. and THOMAS V. BRAWLEY. A copy of the Summons and Verified Complaint is attached hereto and incorporated herein by reference as **Exhibit A**.

2. On March 1, 2022, the Removing Defendants appeared in the Action by serving their Verified Answer, a copy of which is attached hereto and incorporated herein by reference as

Exhibit B.

3. On March 2, 2022, the Removing Defendants filed and served an Amended Verified Answer in this matter. A copy of the Amended Verified Answer is attached as **Exhibit C**.

4. After the commencement of the action, and in accordance with N.Y. CPLR 3017(c), the Removing Defendants served a Supplemental Demand for Relief on the Plaintiff, a copy of which is attached and incorporated herein by reference as **Exhibit D**.

5. On April 4, 2022, Removing Defendants received Plaintiff's Response to Supplemental Demand for Relief, dated April 3, 2022, which included a demand for relief seeking Five Hundred Thousand U.S. Dollars (\$500,000.00) in damages in this action, a copy of which is attached as **Exhibit E**.

6. According to Plaintiff's Verified Complaint, Plaintiff Christopher LaPlatney is an individual domiciled in the State of New York and, therefore, for the purposes of this Notice of Removal, is a citizen of the State of New York. *See* Ex. A.

7. Removing Defendant HERCULES FORWARDING, INC., is a corporation organized under the laws of California, with a principal place of business in the State of California and, therefore, for the purposes of this Notice of Removal, is a citizen of the State of California.

8. Removing Defendant THOMAS V. BRAWLEY is an individual domiciled in the State of New Jersey and, therefore, for the purposes of this Notice of Removal, is a citizen of the State of New Jersey.

9. This Court has original subject matter jurisdiction over the Action pursuant to 28 U.S.C. §§1332(a) and 1441(b), because (a) there is complete diversity of citizenship among the parties; (b) the amount in controversy exceeds the sum of seventy-five thousand dollars

(\$75,000.00) exclusive of interest and costs; and (c) none of the parties in interest who are properly joined and served as Defendants are citizens of the State of New York. The Action may, therefore, be removed pursuant to 28 U.S.C. § 1441(b).

10. This Notice of Removal is timely filed under 28 U.S.C. § 1446(b)(3) and (c), because it is filed within thirty (30) days after receipt of Plaintiff's Supplemental Demand for Relief where it was first ascertainable that the case was removable, and within one (1) year of commencement of the Action.

11. Pursuant to 28 U.S.C. §1446(b)(2), all defendants who have been properly joined and served join in and consent to the removal of the Action.

12. Pursuant to 28 U.S.C. §1441(a), removal venue exists in the United States District Court for the Northern District of New York because the Supreme Court, Onondaga County is within the jurisdiction of the Northern District of New York.

13. Pursuant to 28 U.S.C. §1446(a), all process, pleadings, and orders served to date upon the Removing Defendants are appended hereto. Pursuant to Local Rule 81(a)(3), an index of all documents filed in the state court action is attached hereto as **Exhibit F**.

14. Pursuant to 28 U.S.C. § 1446(d), written notice of the filing of this Notice of Removal is being served upon the Plaintiff and is being filed with the Clerk of the Supreme Court, Onondaga County. *See* Notice of Filing of Notice of Removal, with Affidavit of Service, attached hereto as **Exhibit G**.

15. Removing Defendants reserve the right to amend or supplement this Notice of Removal.

WHEREFORE, Removing Defendants request that the case styled *CHRISTOPHER LAPLATNEY, Plaintiff, versus HERCULES FORWARDING, INC. and THOMAS V. BRAWLEY,*

Defendants, Supreme Court of the State of New York, County of Onondaga, Index No. 000963/2022, be removed to this Court, and that this Court take subject matter jurisdiction over this Action.

Dated: Buffalo, New York
April 6, 2022

Yours, etc.,

Joel B. Schechter, Esq.

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CERTIFICATE OF SERVICE

I hereby certify that on this 6th day of April, 2022, the foregoing Notice of Removal was mailed by first-class U.S. mail, postage prepaid, and filed electronically with the Clerk of Court, to be served by operation of the Court's electronic filing system, upon the following:

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